

657—35.28 (17A,272C) Stays of board actions.**35.28(1)** *When available.*

a. Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

35.28(2) *When granted.* In determining whether to grant a stay, the presiding officer or board shall consider the following factors:

a. The extent to which the applicant is likely to prevail when the court finally disposes of the matter;

b. The extent to which the applicant will suffer irreparable injury if relief is not granted;

c. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings;

d. The extent to which the public interest relied on by the board is sufficient to justify the board's action in the circumstances.

35.28(3) *Vacation.* The issuing authority may vacate a stay upon application of the board or any other party.